

In the event that the present submission does not place the application into condition for allowance, entry thereof is requested as placing the application into better condition for appeal.

In view of the following remarks the Examiner is respectfully requested to withdraw all rejections and allow the currently pending claims.

Issues under 35 U.S.C. 103(a)

The Examiner has rejected claims 1-3, 6 and 9 under 35 U.S.C. 103(a) as being obvious over JP 11-228491 (hereinafter referred to as JP '491) in view of Ishihara et al., Science, Volume 290 (November 10, 2000) (hereinafter referred to as Ishihara). Applicants respectfully traverse this rejection.

First, Applicants point out that JP '491 fails to suggest or disclose the use of a Lewis acid or a zirconium compound in the present method of producing a cyclopropanecarboxylate. In fact, JP '491 specifically fails to suggest to one of ordinary skill in the art to utilize a zirconium compound as specifically required by claim 1. The secondary reference of Ishihara fails to cure this deficiency since Ishihara fails to disclose the use of a zirconium compound in conjunction with producing a cyclopropanecarboxylate as required by the present claims. Thus, Ishihara is non-analogous to the present method.

Second, even if one of ordinary skill in the art were to consider Ishihara as suggesting the use of a zirconium compound in the specific condensation reaction of Ishihara, that suggestion would not necessarily apply to the production of a cyclopropanecarboxylate as claimed. In fact, as disclosed by the previously submitted Dimmock reference, zirconium compounds are harmful to a cyclopropane compounds. Thus, in view of the teaching of Dimmock, a person of ordinary skill in the art would not use the discussion of a zirconium compound of Ishihara to the esterification of a cyclopropanecarboxylic acid compound (as required by the claims) with a reasonable expectation of success.

The Examiner ignores the teachings of Dimmock and simply argues that Dimmock is allegedly non-analogous art. Applicants disagree with the Examiner in this regard.

Dimmock is no less analogous than the Ishihara reference cited by the Examiner. Dimmock shows that cyclopropane groups are susceptible to ring opening by zirconium compounds. This teaching is not changed by the nature of the compound within which the cyclopropane group exists. If Dimmock is non-analogous, presumably for lacking a teaching of the reaction of carboxylic acids with alcohols, then Ishihara is also non-analogous since Ishihara fails to even suggest a cyclopropanecarboxylic acid or a cyclopropanecarboxylate at all.

Thus, if Dimmock is non-analogous for failing to disclose the reaction of a carboxylic acid with an alcohol, then Ishihara, is likewise non-analogous for failing to disclose cyclopropane-containing compounds as claimed. Either way, the Examiner must ignore, or give weight, to both references. The result of such analysis is that the Examiner has failed to present a valid *prima facie* case of obviousness.

In summary, both of JP '491 and Ishihara fail to suggest or disclose to one of ordinary skill in the art to combine the teachings of the two documents and arrive the presently claimed subject matter. In particular, Applicants draw the Examiner's attention to the fact that present claims require that the catalyst compound be a zirconium compound. In addition, Dimmock discloses that zirconium compounds are harmful to a cyclopropane compound. Thus, in view of the teaching of Dimmock et al., a person of ordinary skill in the art would not apply a catalyst of Ishihara to the esterification of a cyclopropanecarboxylic acid with a reasonable expectation of success. Accordingly, the process according to the present claims is not obvious over JP '491 in view of Ishihara. Reconsideration and withdrawal of all rejections are therefore requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully

requested to contact Craig McRobbie (Reg. No. 42,874) at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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